

REMARKS

In the Office Action dated December 14, 2007, claims 1, 3, 4, 6-9, 12, 15, 16, 18, and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,457,746 (Dolphin) in view of U.S. Patent No. 6,003,097 (Richman).

It is respectfully submitted that claim 1 is non-obvious over the asserted combination of Dolphin and Richman.

To make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as the U.S. Supreme Court held, it is **important** to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

Here, a comparison of the claimed subject matter and the hypothetical combination of Dolphin and Richman will reveal that the claimed subject matter is significantly different from the teachings of Dolphin and Richman.

The Office Action conceded that Dolphin fails to disclose the following elements of claim 1: (1) after enabling activation of the first code, executing the first code during a boot procedure of the system; and (2) during execution of the first code [during the boot procedure of the system], providing another prompt for entry of a second key. 12/14/2007 Office Action at 4. However, the Office Action cited Richman as disclosing the claimed subject matter missing from Dolphin. *Id.*

It is respectfully submitted that Richman provides no teaching of executing the first code [to prompt for entry of the key at a later time] during a boot procedure of the system, and during execution of such first code, providing another prompt for entry of a second key. Richman is related to automatically configuring a network adapter without manual intervention. See Richman, Abstract. As described in Fig. 4A of Richman (also cited by the Office Action), a procedure is depicted for obtaining information from devices of a computer, conducting an inquiry to identify a subset of devices that must be active upon completion of the boot process (step 54 in Fig. 4A) and obtaining a boot-level device driver for each of the devices required to be activated to enable communications between the boot-level devices and the computer of

Richman. Richman, 19:53-20:15. The Office Action pointed specifically to step 54 of Richman, which relates to the inquiry to identify the subset of devices that must be active upon completion of a boot process. Identifying devices for completion of a boot process, as taught by Richman, is completely unrelated to the claimed subject matter, which recites executing first code (to prompt for entry of the key at a later time) during a boot procedure of the system, and during execution of such first code, providing another prompt for entry of a second key.

This is a first point of error made by the Office Action.

A further point of error made by the Office Action is the mis-application of Dolphin to the following clause of claim 1: “in response to determining that the entered key is not proper, installing the software in the system and enabling activation of first code to prompt for entry of the key at a later time.”

In Dolphin, a user wishing to access data on a CD sends a request to a billing/access center to receive a key to access the desired data. Based on the particular data set that the user wishes to access on the CD, the billing/access center downloads the appropriate key to the user where it is then stored on the user’s PCMCIA card or other appropriate hardware. Once stored, the key then can be used to access the desired data on the CD. *See* Dolphin, 6:43-58.

As further taught by Dolphin, a key can be zeroized “after one or only a few reviews of the data or after a short time duration” Dolphin, 7:24-26. When a key is zeroized, further access of data “will require another call to the billing/access center 23.” *Id.*, 8:22-24.

Dolphin does not disclose installing software in the system and storing an entered key “**in response to determining that the entered key is proper,**” as recited in claim 1. In Dolphin, the key is downloaded and stored **in response to a user request** for a particular key and then used or entered to access data. As such, an **entered** key is not stored **in response to determining that the entered key is proper**, as recited in claim 1. In other words, in Dolphin, a user requests a key from the billing/access center, and the key is downloaded in response to such request. There is no further verification of the key to determine that the key is proper, followed by further storing of the previously entered key in response to such verification.

In view of the above points of error made by the Office Action, it is clear that the hypothetical combination of Dolphin and Richman would not have led to the claimed subject matter.

Moreover, it is respectfully submitted that a person of ordinary skill in the art would not have been prompted to combine the teachings of Dolphin and Richman. As discussed above, Dolphin relates to downloading a key to a PCMCIA card for the purpose of accessing content of a CD. On the other hand, Richman refers to configuring devices during a boot procedure. Such teaching of Richman is completely unrelated to the teachings of Dolphin. The Office Action has failed to provide any explanation of why configuration of devices such as network adapters, as taught by Richman, would have any relevance in the context of Dolphin, which relates to downloading a key from a billing/access center to a PCMCIA card, and using that key to access content of a CD.

Since no reason existed that would have prompted a person of ordinary skill in the art to combine the teachings of Dolphin and Richman, the obviousness rejection is further defective for this additional reason.

Independent claims 9 and 16 are allowable for similar reasons as claim 1. Dependent claims are allowable for at least the same reasons as corresponding independent claims.

In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200304043-3).

Respectfully submitted,

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